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AN ACT

RELATING TO TRANSPORTATION; INCLUDING TAXICAB SERVICES AND TERMINAL SHUTTLE SERVICE AS NON-EXEMPT INTRASTATE BUSINESSES; AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 65-2-82 NMSA 1978 (being Laws 1981, Chapter 358, Section 3, as amended by Laws 2001, Chapter 245, Section 3 and by Laws 2001, Chapter 259, Section 1) is amended to read:

"65-2-82. DEFINITIONS.--As used in the Motor Carrier Act:

A. "antitrust laws" means the laws of this state relating to combinations in restraint of trade;

B. "broker" means a person not included in the term "motor carrier" and not a bona fide employee or agent of any motor carrier who, as principal or agent, sells or offers for sale any transportation subject to the Motor Carrier Act or negotiates for or holds himself out by solicitation, advertisement or otherwise as one who sells, provides, furnishes, contracts or arranges for that transportation;

C. "certificate" means a certificate of public convenience and necessity issued under authority of the laws of the state to common motor carriers;

D. "clerk" or "chief clerk" means the chief clerk of the public regulation commission;

E. "commission" means the public regulation commission;

F. "common motor carrier" means a person who undertakes, whether directly or indirectly or by lease of equipment or operating rights or any other arrangement, to transport persons or property or any class of property for the general public by motor vehicle for compensation, whether over regular or irregular routes and under scheduled or nonscheduled service, but does not include farm carriers and does not include commuter vanpools;

G. "commuter vanpool" means a volunteer-driver commuter group that

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1 operates a vanpool that utilizes a seven- to fifteen-passenger vehicle to share rides to  
2 and from the workplace or training site; where participation is open to the public and  
3 incidental to the primary work- or training-related purposes of the individuals in the  
4 group; and where the volunteer drivers determine the daily vanpool route, have no  
5 employer-employee relationship with the vanpool operator and generally begin their  
6 vanpool driving duties at their home and end at the individual workplace or training  
7 site;

8 H. "contract motor carrier" means a person not a common motor  
9 carrier who, under individual contracts or agreements and whether directly or indirectly  
10 or by lease of equipment or operating rights or any other arrangements, transports  
11 persons or property by motor vehicle for compensation, but does not include farm  
12 carriers;

13 I. "farm carrier" means a motor vehicle registered in this state being  
14 used in the transportation for hire of a cargo consisting of one or several of the  
15 following: farm produce, including grains, cotton, cottonseed, vegetables, hay and  
16 other farm products; livestock feed; livestock; stock salt; manure; wire; posts; dairy  
17 products; and farm or ranch machinery except tractors weighing more than forty-five  
18 thousand pounds;

19 J. "highway" means the public roads, highways, streets and ways in  
20 this state;

21 K. "household goods" means:

22 (1) personal effects and property used or to be used in a  
23 dwelling when a part of the equipment or supply of the dwelling and other similar  
24 property as the commission may provide by rule; except that this paragraph shall not  
25 be construed to include property moving from a factory or store, except property as  
the householder has purchased with intent to use in his dwelling and that is  
transported at the request of, and the transportation charges paid to the carrier by,  
the householder;

(2) furniture, fixtures, equipment and the property of stores,

1 offices, museums, institutions, hospitals or other establishments when a part of the  
2 stock, equipment or supply of stores, offices, museums, institutions, hospitals or other  
3 establishments and other similar property as the commission may provide by rule;  
4 except that this paragraph shall not be construed to include the stock-in-trade of any  
5 establishment, whether consignor or consignee, other than used furniture and used  
6 fixtures, except when transported as incidental to the moving of the establishment, or a  
7 portion of it, from one location to another; and

8 (3) articles, including objects of art, displays and exhibits, that,  
9 because of their unusual nature or value, require the specialized handling and  
10 equipment usually employed in moving household goods and other similar articles as  
11 the commission may provide by rule; except that this paragraph shall not be construed  
12 to include any article, whether crated or uncrated, that does not, because of its  
13 unusual nature or value, require the specialized handling and equipment usually  
14 employed in moving household goods;

15 L. "interested parties" shall in all cases include all carriers operating  
16 over the routes or any part thereof or in the territory involved in an application for a  
17 certificate or permit or an application to file or change a schedule of rates, charges or  
18 fares or a rule or practice, and other parties as the commission may deem interested  
19 in the particular matter;

20 M. "irregular route" means a course to be used by a motor carrier that  
21 is not restricted to any specific highway within the area the motor carrier is authorized  
22 to serve;

23 N. "lease" means an arrangement whereby a motor carrier augments  
24 his equipment by use of equipment owned by others;

25 O. "license" means a license issued pursuant to the Motor Carrier Act  
to a broker;

P. "motor carrier" includes common motor carriers, contract motor  
carriers and any person performing for-hire transportation service without authority  
from the commission and farm carriers;

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1 Q. "motor vehicle" means a vehicle, machine, tractor, trailer or semi-  
2 trailer propelled or drawn by mechanical power and used upon the highways in the  
3 transportation of property or persons, but does not include any vehicle, locomotive or  
4 car operated exclusively on rail or rails;

5 R. "permit" means a permit issued under authority of the laws of this  
6 state to contract motor carriers;

7 S. "person" means an individual, firm, partnership, corporation,  
8 company, association or organization and includes any trustee, receiver, assignee or  
9 personal representative thereof;

10 T. "regular route" means a fixed, specific and determined course to be  
11 traveled by a motor carrier's vehicles rendering service to, from or between various  
12 points, localities or municipalities in this state;

13 U. the "services" and "transportation" to which the Motor Carrier Act  
14 applies include all vehicles operated by, for or in the interest of any motor carrier  
15 irrespective of ownership or of contract, express or implied, together with all facilities  
16 and property controlled by any motor carrier and used in the transportation of persons  
17 or property or in the performance of any service in connection therewith;

18 V. "shipper" means a person who consigns or receives goods for  
19 transportation;

20 W. "single-line rate" means a rate, charge or allowance proposed by a  
21 single common motor carrier of property that is applicable only over its line and for  
22 which the transportation can be provided by that common motor carrier;

23 X. "state" means New Mexico;

24 Y. "taxicab service" means a common motor carrier engaged in  
25 unscheduled passenger transportation in a motor vehicle having a capacity of not  
more than eight passengers, including the driver, not operated on a regular route or  
between specified places, and that:

(1) is licensed as a taxicab by a state or a local jurisdiction; or

(2) if not licensed or regulated by a state or local jurisdiction as

1 a taxicab service, is offered by a person that:

2 (a) provides local transportation for a fare determined,  
3 except with respect to transportation to or from airport, train or bus terminals, primarily  
4 on the basis of the distance traveled; and

5 (b) does not primarily provide transportation to or from  
6 one or more airport, train or bus terminals;

7 Z. "terminal shuttle service" means a common motor carrier engaged  
8 in passenger transportation service that:

9 (1) is:

10 (a) pre-arranged by contract; or

11 (b) operated for hire on a regular route, allowing for  
12 deviation to pick up or drop off passengers, between specified or generally specified  
13 points; and

14 (2) primarily provides transportation to or from one or more  
15 airport, train or bus terminals but may also provide for intermediate pickup and  
16 departure of passengers;

17 AA. "towing company" means a common motor carrier engaged in  
18 transporting for hire disabled or abandoned motor vehicles by means of a tow truck or  
19 flatbed vehicle carrier; and

20 BB. "weight-bumping" means the knowing and willful making or  
21 securing of a fraudulent weight on a shipment of household goods that is subject to  
22 the jurisdiction of the commission under the Motor Carrier Act."

23 Section 2. Section 65-2-83 NMSA 1978 (being Laws 1981, Chapter 358,  
24 Section 4, as amended) is amended to read:

25 "65-2-83. POWERS AND DUTIES OF COMMISSION.--The commission is  
vested with power and authority, and it is its duty to:

A. regulate common motor carriers as provided in the Motor Carrier  
Act, and to that end, the commission shall establish reasonable requirements with  
respect to continuous and adequate service and shall establish reasonable

1 requirements with respect to uniform systems of accounts, records and reports and  
2 preservation of records;

3 B. regulate contract motor carriers as provided in the Motor Carrier  
4 Act, and to that end, the commission shall establish reasonable requirements with  
5 respect to uniform systems of accounts, records and reports and preservation of  
6 records;

7 C. regulate, as intrastate services, taxicab services and terminal  
8 shuttle services, including those that may operate in part between this state and other  
9 states; provided that the service provides, with regard to any service run, for both:

10 (1) initiation of the transportation of one or more passengers  
11 within this state; and

12 (2) delivery to a departure point within this state of one or more  
13 passengers whose transportation on that service run was initiated at a point within this  
14 state;

15 D. regulate brokers as provided in the Motor Carrier Act, and to that  
16 end, the commission shall establish reasonable requirements with respect to licensing,  
17 financial responsibility, accounts, records, reports, operations and practices of any  
18 such person;

19 E. prescribe rules, regulations and procedures for the administration  
20 of the Motor Carrier Act, to make all necessary orders and do all things necessary to  
21 administer, execute, carry out and enforce the provisions of that act, except those  
22 powers set forth in Section 65-1-6 NMSA 1978; and

23 F. prescribe rules and procedures for default proceedings. In the  
24 event no protest or intervention is filed by a party within thirty (30) days of the date of  
25 notice to parties required to be notified by statute and to such other persons as the  
commission shall direct, a default proceeding may be held at any time thereafter  
pursuant to rules and procedures promulgated pursuant to this subsection."

Section 3. Section 65-2-115 NMSA 1978 (being Laws 1981, Chapter 358,  
Section 36, as amended) is amended to read:

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1 "65-2-115. INTERSTATE CARRIERS--CERTIFICATE OF REGISTRATION--  
2 PROCEDURE.--

3 A. No common or contract motor carrier engaged exclusively in  
4 interstate commerce shall operate for the transportation of persons or property for hire  
5 upon any public highway in this state without first either obtaining from the commission  
6 a certificate of registration under the provisions of this section or complying with the  
7 provisions of Section 65-2-115.1 NMSA 1978, as directed by the commission.

8 B. The certificate of registration shall be issued to interstate carriers,  
9 as a matter of course, upon proper application being made and shall designate the  
10 route and type of service specified in the application. No certificate of registration  
11 shall authorize the holder to engage in whole or in part as a common or contract motor  
12 carrier in intrastate business within this state or to engage in any business or operate  
13 over any route not specified in the certificate of registration. The certificate of  
14 registration shall become void unless the applicant to which it is granted begins  
15 operations within thirty days from the date the certificate of registration is issued and  
16 shall become void if the service is thereafter discontinued or unless in either event an  
17 extension is granted upon proper showing by order of the commission. A taxicab  
18 service or terminal shuttle service is engaged in non-exempt intrastate business within  
19 the state, regardless of any prior exemption, if its service provides, with regard to any  
20 service run, for both:

21 (1) initiation of the transportation of one or more passengers  
22 within this state; and

23 (2) delivery to a departure point within this state of one or more  
24 passengers whose transportation on that service run was initiated at a point within this  
25 state.

26 C. The commission shall adopt rules prescribing the manner and form  
27 in which interstate motor carriers shall apply for certificates of registration but the  
28 application shall be in writing and sworn to and shall show: the name and address of  
29 the applicant and, if a corporation, the names of its officers and directors and their

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1 addresses; the entire route within this state over which the applicant desires to  
2 operate; the kind of transportation, whether passenger or freight or both, in which the  
3 applicant proposes to engage together with a brief description of each vehicle which  
4 the applicant intends to use, including the seating capacity if for passenger traffic or  
5 the tonnage capacity if for freight; a specification of the proposed schedule, the  
6 proposed rate schedule or schedules of rates for transportation or for services in  
7 connection therewith; and other information as the commission may require covering  
8 observance of New Mexico state police regulations and payment of license taxes and  
9 fees.

10 D. This certificate of registration shall be subject to all the motor  
11 carrier provisions of the revised Interstate Commerce Act, as amended, Subtitle 4,  
12 Title 49, United States Code."

13 Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act  
14 is July 1, 2003.  
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